

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

ONSTREAM MEDIA CORPORATION,

Plaintiff,

v.

BUILDSCALE, INC. d/b/a VIDYARD,

Defendant.

Case No. 6:21-cv-00554

Jury Trial Demanded

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Onstream Media Corporation (“Onstream”) files this Complaint against Buildscafe Inc. for patent infringement of United States Patent Nos. 9,161,068; 9,467,728; 10,038,930; 10,200,648; 10,674,109; 10,694,142; and 10,848,707 (the “patents-in-suit”) and alleges as follows:

NATURE OF THE ACTION

1. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§ 1 *et seq.*

THE PARTIES

2. Onstream is a corporation organized under laws of the State of Florida with its principal place of business at 1451 W. Cypress Creek Rd., No. 204, Ft. Lauderdale, FL 33309.

3. On information and belief, Buildscale Inc. is a company organized and existing under the laws of Canada with its principal place of business at 8 Queen St. N, Unit #1, Kitchener, ON, Canada N2H 2G8.

4. On information and belief, Buildscale Inc. does business as Vidyad. (The defendant will hereinafter be referred to in this complaint as “Vidyad”)

5. On information and belief, Defendant acts in concert to design, manufacture, sell, offer for sale, import, distribute, advertise, and/or otherwise promote the accused infringing method, products and services in the United States, the State of Texas, and this judicial district.

JURISDICTION AND VENUE

6. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this action arises under the patent laws of the United States, 35 U.S.C. §§ 1 *et seq.*

7. Vidyad is subject to this Court’s personal jurisdiction, in accordance with due process and/or the Texas Long Arm Statute because, in part, Vidyad has “commit[ted] a tort in whole or in part in this state.” *See* Tex. Civ. Prac. & Rem. Code § 17.042.

8. This Court also has personal jurisdiction over Defendant because Defendant has sufficient minimum contacts with this forum as a result of business conducted within the State of Texas and this judicial district. In particular, this Court has personal jurisdiction over Defendant because, *inter alia*, Defendant, on information and belief (directly and/or through its subsidiaries, affiliates, or intermediaries), have

substantial, continuous, and systematic business contacts in this judicial district, and derive substantial revenue from goods and services provided to individuals in the State of Texas and this judicial district.

9. Defendant (directly and/or through its subsidiaries, affiliates, or intermediaries) have purposefully availed themselves of the privileges of conducting business within the State of Texas and in this judicial district, has established sufficient minimum contacts with this judicial district such that it should reasonably and fairly anticipate being hauled into court in this judicial district, has purposefully directed activities at residents of this judicial district, and at least a portion of the patent infringement claims alleged in this Complaint arise out of or are related to one or more of the foregoing activities.

10. Venue is proper as to Defendant, which are organized under the laws of Canada. 28 U.S.C. § 1391(c)(3) provides that “a defendant not resident in the United States may be sued in any judicial district, and the joinder of such a defendant shall be disregarded in determining where the action may be brought with respect to other defendants.”

United States Patent No. 9,161,068

11. On October 13, 2015, the United States Patent and Trademark Office (“USPTO”) duly and legally issued United States Patent No. 9,161,068 (“the ‘068 patent”) entitled “Remotely Accessed Virtual Recording Room” to inventor Gregory Duane Ellis.

12. The ‘068 patent is presumed valid under 35 U.S.C. § 282.

13. Onstream owns all rights, title, and interest in the '068 patent.

14. On information and belief, Onstream has not granted Vidyad an approval, an authorization or a license to the rights under the '068 patent.

15. The '068 patent relates to, among other things, an audio and video stream recording, storage, and delivery system.

16. The claimed invention(s) of the '068 patent sought to solve problems with, and improve upon, existing audio and video recording, storage, delivery systems. For example, the '068 patent states:

Unfortunately, new systems and methods for increasing the capabilities of online business-related communications and transactions often result in increased intellectual complexity and/or increased computer system requirements. This tendency is undesirable because another main avenue for increasing the productivity of online business-related communications and transactions is to increase the number of people who are participating in these online business-related transactions.

See '068 Specification at col. 1, ll. 31-39.

17. The '068 patent then states:

Accordingly, it would be highly valuable if any new systems and methods for increasing the capabilities of online business-related communications and transactions also could be simple enough to help attract new users to the online business market and also not have extensive computer system requirements.

See '068 Specification at col. 1, ll. 39-44.

18. The '068 patent then also states:

Accordingly, there has been a long existing need for a system that improves the level of communication possible with respect to online business-related transactions. Further, there is a continuing need for an improved system and/or method that is simple, efficient, and does not have extensive computer system requirements. Accordingly, those skilled

in the art have long recognized the need for a system and method that addresses these and other issues.

See '068 Specification at col. 1, ll. 45-52.

19. The invention(s) claimed in the '068 patent solves various technological problems inherent in the then-existing audio and video recording, storage, and delivery systems and enables audio and video recording, storage, and delivery systems to, among other things, (1) function more efficiently, (2) lower the required level of expertise for users of such systems, (3) avoid the need to install and burden front end computer and electronic devices with additional software, (4) reduce or eliminate entirely the need for local memory storage devices and other specialized recording equipment, and (5) reduce or eliminate other hardware and software requirements inherent in prior art audio and video recording and distribution systems.

United States Patent No. 9,467,728

20. On October 11, 2016, the USPTO duly and legally issued United States Patent No. 9,467,728 ("the '728 patent") entitled "Remotely Accessed Virtual Recording Room" to inventor Gregory Ellis.

21. The '728 patent is presumed valid under 35 U.S.C. § 282.

22. Onstream owns all rights, title, and interest in the '728 patent.

23. Onstream has not granted Vidyard an approval, an authorization or a license to the rights under the '728 patent.

24. The '728 patent relates to, among other things, an audio and video stream recording, storage, and delivery system.

25. The specification of the '728 patent is the same as the '068 patent specification, and solves the problems recited above and described in the '728 patent specification.

United States Patent No. 10,038,930

26. On July 31, 2018 the USPTO duly and legally issued United States Patent No. 10,038,930 ("the '930 patent") entitled "Remotely Accessed Virtual Recording Room" to inventor Gregory Duane Ellis.

27. The '930 patent is presumed valid under 35 U.S.C. § 282.

28. Onstream owns all rights, title, and interest in the '930 patent.

29. Onstream has not granted Vidyard an approval, an authorization or a license to the rights under the '930 patent.

30. The '930 patent relates to, among other things, an audio and video stream recording, storage, and delivery system.

31. The claimed invention(s) of the '930 patent sought to solve problems with, and improve upon, existing audio and video recording, storage, delivery systems. The specification of the '930 patent is the same as the '068 patent specification, and solves the problems recited above and described in the '930 patent specification.

United States Patent No. 10,200,648

32. On February 5, 2019, the USPTO duly and legally issued United States Patent No. 10,200,648 ("the '648 patent") entitled "Remotely Accessed Virtual Recording Room" to inventor Gregory Duane Ellis.

33. The '648 patent is presumed valid under 35 U.S.C. § 282.

34. Onstream owns all rights, title, and interest in the '648 patent.

35. Onstream has not granted Vidyad an approval, an authorization or a license to the rights under the '648 patent.

36. The '648 patent relates to, among other things, an audio and video stream recording, storage, and delivery system.

37. The claimed invention(s) of the '648 patent sought to solve problems with, and improve upon, existing audio and video recording, storage, delivery systems. The specification of the '648 patent is the same as the '068 patent specification, and solves the problems recited above and described in the '648 patent specification.

United States Patent No. 10,674,109

38. On June 2, 2020, the USPTO duly and legally issued United States Patent No. 10,674,109 ("the '109 patent") entitled "Remotely Accessed Virtual Recording Room" to inventor Gregory Duane Ellis.

39. The '109 patent is presumed valid under 35 U.S.C. § 282.

40. Onstream owns all rights, title, and interest in the '109 patent.

41. Onstream has not granted Vidyad an approval, an authorization or a license to the rights under the '109 patent.

42. The '109 patent relates to, among other things, an audio and video stream recording, storage and delivery system.

43. The claimed invention(s) of the '109 patent sought to solve problems with, and improve upon, existing audio and video recording, storage, delivery systems. The specification of the '109 patent is the same as the '068 patent specification, and

addresses and solves the problems recited above and described in the '068 patent specification.

United States Patent No. 10,694,142

44. On June 23, 2020, the USPTO duly and legally issued United States Patent No. 10,694,142 ("the '142 patent") entitled "Remotely Accessed Virtual Recording Room" to inventor Gregory Duane Ellis.

45. The '142 patent is presumed valid under 35 U.S.C. § 282.

46. Onstream owns all rights, title, and interest in the '142 patent.

47. Onstream has not granted Vidyard an approval, an authorization or a license to the rights under the '142 patent.

48. The '142 patent relates to, among other things, an audio and video stream recording, storage and delivery system.

49. The claimed invention(s) of the '142 patent sought to solve problems with, and improve upon, existing audio and video recording, storage, delivery systems. The specification of the '142 patent is the same as the '068 patent specification, and addresses and solves the problems recited above and described in the '068 patent specification.

United States Patent No. 10,848,707

50. On November 24, 2020, the USPTO duly and legally issued United States Patent No. 10,848,707 ("the '707 patent") entitled "Remotely Accessed Virtual Recording Room" to inventor Gregory Duane Ellis.

51. The '707 patent is presumed valid under 35 U.S.C. § 282.

52. Onstream owns all rights, title, and interest in the '707 patent.

53. Onstream has not granted Vidyad an approval, an authorization or a license to the rights under the '707 patent.

54. The '707 patent relates to, among other things, an audio and video stream recording, storage and delivery system.

55. The claimed invention(s) of the '707 patent sought to solve problems with, and improve upon, existing audio and video recording, storage, delivery systems. The specification of the '707 patent is the same as the '068 patent specification, and addresses and solves the problems recited above and described in the '068 patent specification.

CLAIMS FOR RELIEF

Count I – Infringement of United States Patent No. 9,161,068

56. Onstream repeats, realleges, and incorporates by reference, as if fully set forth here, the allegations of the preceding paragraphs above.

57. On information and belief, Vidyad (or those acting on its behalf) makes, uses, and provides Vidyad and sells and/or offers to sell products and services in the United States that use Vidyad as a feature or component. Vidyad, as well as the hardware and software components comprising the system that enables the Vidyad service to operate, including but not limited to servers, server software, client software, and other computer systems and components (the "Vidyad System"), infringes (literally and/or under the doctrine of equivalents) at least claim 1 of the '068 patent.

58. On information and belief, one or more components of the Vidyard System employs and provides a method that records audio and video material over an Internet browser connection established between a user front end and a host back end.

Free Screen and Webcam Recording

It's never been easier to create and share videos that get results. With Vidyard's free screen recording tools, you can transform your prospecting communications, customer presentations, and team updates into videos that help your message get heard.

Create

Upload an existing video or record your own with the Vidyard Screen and Webcam Recorder.

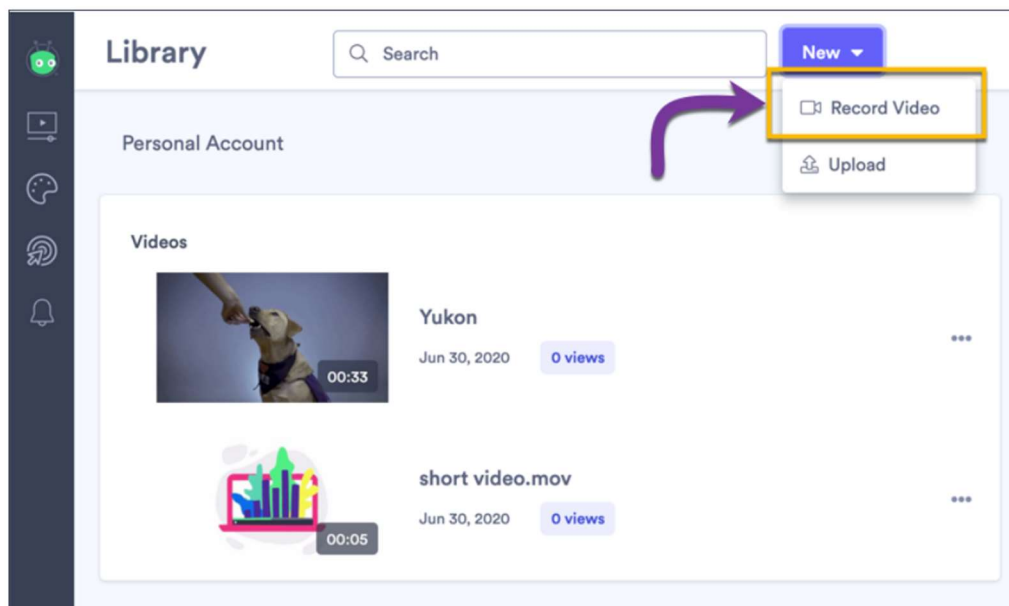
See <https://www.vidyard.com/free-screen-record/>

Live streaming video pulls you into a moment

In a heartbeat, catch a moment, share it any time and anywhere, and learn what everyone (or anyone) truly thinks, not just the people who were in the room.

See <https://www.vidyard.com/live-streaming/>

1. Open the **New** dropdown menu from your library, then select **Record Video**



See <https://knowledge.vidyard.com/hc/en-us/articles/360049977294-How-to-record-a-new-video-from-your-account-library>

59. On information and belief, one or more components of the Vidyard System, can either be accessed through an Internet browser on a desktop computer or a mobile device.

In a few simple steps, you can **record a new video** with either your screen or camera directly from the your account library.

Recording videos from your library is particularly useful if you have not yet **set up the Vidyard browser extension** or are using a browser other than Chrome or Microsoft Edge.

See <https://knowledge.vidyard.com/hc/en-us/articles/360049977294-How-to-record-a-new-video-from-your-account-library>

60. On information and belief, when a user wants to begin streaming using one or more components of the Vidyard System, Vidyard's servers deliver a code, which can be executed by a browser.

61. On information and belief, one or more components of the Vidyard System delivers a code that enables the streaming of audio and video material.

62. On information and belief, one or more components of the Vidyard System delivers a browser-executable-code that is a browser independent recording application that initiates the audio and video stream to be recorded.



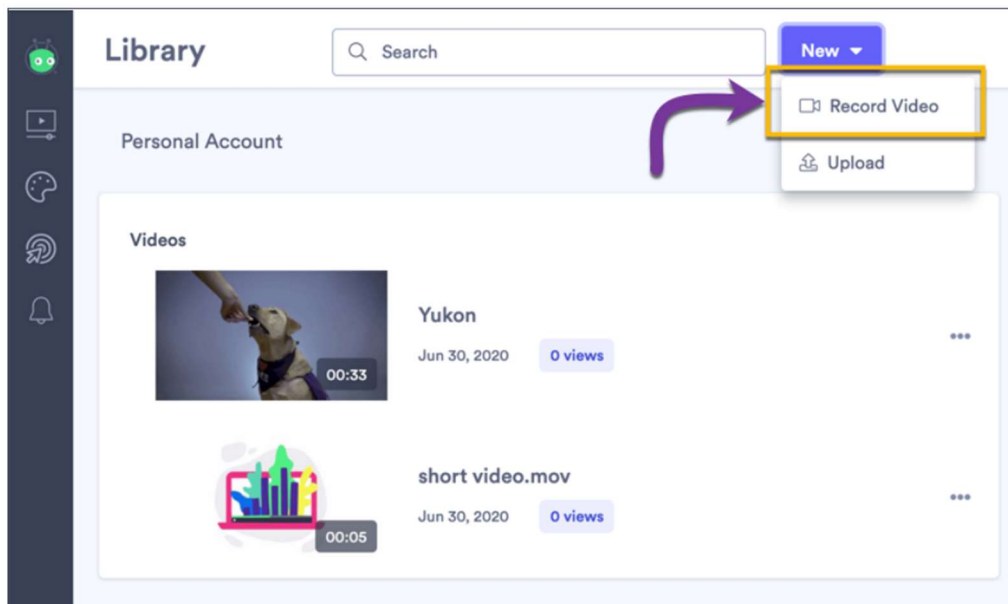
Upload an existing video or record
your own with the Vidyard Screen and
Webcam Recorder.

See <https://www.vidyard.com/free-screen-record/>

In a few simple steps, you can **record a new video** with either your screen or camera directly from the your account library.

Recording videos from your library is particularly useful if you have not yet **set up the Vidyard browser extension** or are using a browser other than Chrome or Microsoft Edge.

1. Open the **New** dropdown menu from your library, then select **Record Video**



See <https://knowledge.vidyard.com/hc/en-us/articles/360049977294-How-to-record-a-new-video-from-your-account-library>

63. On information and belief, one or more components of the Vidyard System delivers a code that is executed through a browser at the user front end.

64. On information and belief, one or more components of the Vidyard System uses an Internet connection.

What is the slow connection status?

In order to record videos, the Vidyard Chrome extension uses a combination of browser resources, local storage, and your computer's camera and microphone. If using Chrome v.62 or higher, you may receive a **Slow Connection** status when the browser detects that the network is unable to upload more than 4G (approximately 2mbit/sec or less).

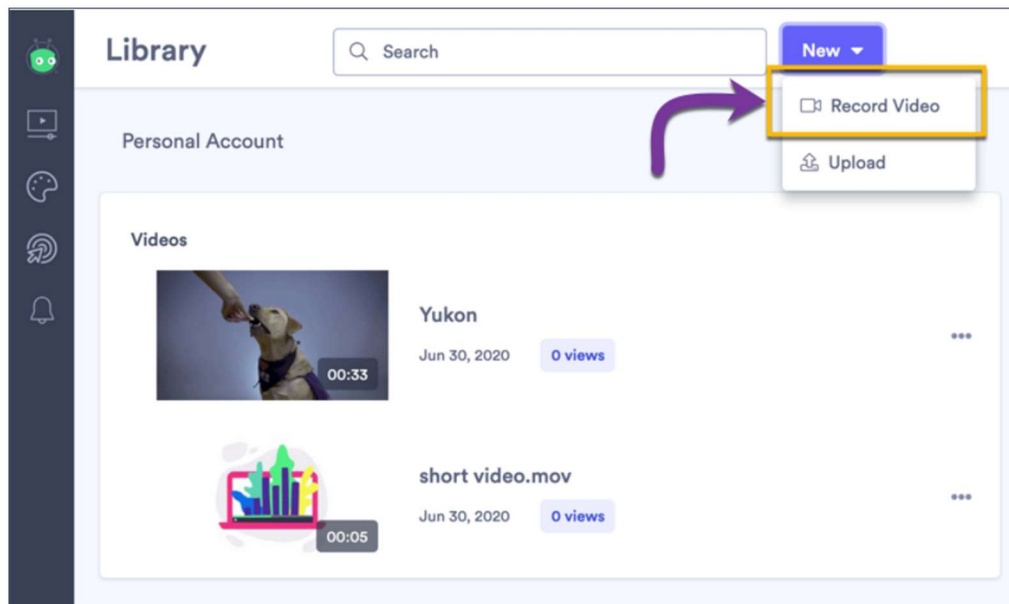
See <https://knowledge.vidyard.com/hc/en-us/articles/360009875734-What-does-the-Slow-Connection-status-mean-when-using-the-Vidyard-Chrome-extension->

65. Vidyard employs and provides a method wherein audio and video material is streamed over the Internet as the audio and video material is captured by a recording device.

In a few simple steps, you can **record a new video** with either your screen or camera directly from the your account library.

Recording videos from your library is particularly useful if you have not yet [set up the Vidyard browser extension](#) or are using a browser other than Chrome or Microsoft Edge.

1. Open the **New** dropdown menu from your library, then select **Record Video**



See <https://knowledge.vidyard.com/hc/en-us/articles/360049977294-How-to-record-a-new-video-from-your-account-library>

Create

Upload an existing video or record your own with the Vidyard Screen and Webcam Recorder.

See <https://www.vidyard.com/free-screen-record/>

66. Vidyad uses and provides a method wherein audio and video material is captured without using any recording software installed on the user front end.

Easy Video Creation

Record your screen, webcam, or both. Create your own videos in just a few clicks, with no special equipment or video expertise required.

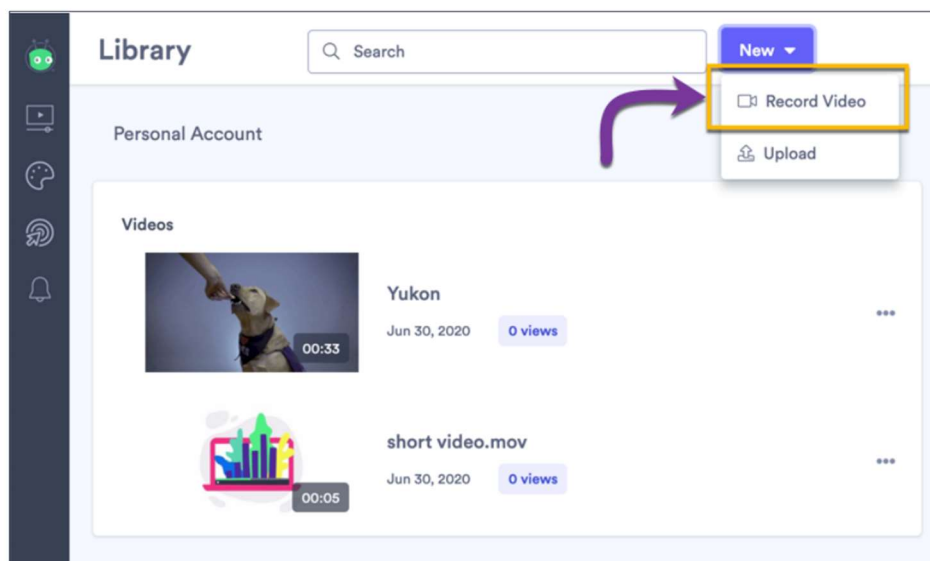
See <https://www.vidyard.com/online-screen-recorder/>

67. On information and belief, one or more components of the Vidyad System uses and provides a method that does not require transmission of a complete audio and video file from the user front end. Rather, on information and belief, a stream of audio and video material is transmitted to Vidyad's servers as the audio and video material is being captured.

68. On information and belief, one or more components of the Vidyad System uses and provides a method wherein the audio and video recordings are made and stored on the host back end as a complete file.

69. On information and belief, Vidyad uses and provides a method wherein after the recording of audio and video material is complete, Vidyad provides access to the entire audio and video recording.

1. Open the **New** dropdown menu from your library, then select **Record Video**



See <https://knowledge.vidyard.com/hc/en-us/articles/360049977294-How-to-record-a-new-video-from-your-account-library>

70. On information and belief, Vidyard directly infringes at least claim 1 of the '068 patent, and is in violation of 35 U.S.C. § 271(a) by using and providing Vidyard.

71. Vidyard's direct infringement has damaged Onstream and caused it to suffer and continue to suffer irreparable harm and damages.

Count II – Infringement of United States Patent No. 9,467,728

72. Onstream repeats, realleges, and incorporates by reference, as if fully set forth here, the allegations of the preceding paragraphs above.

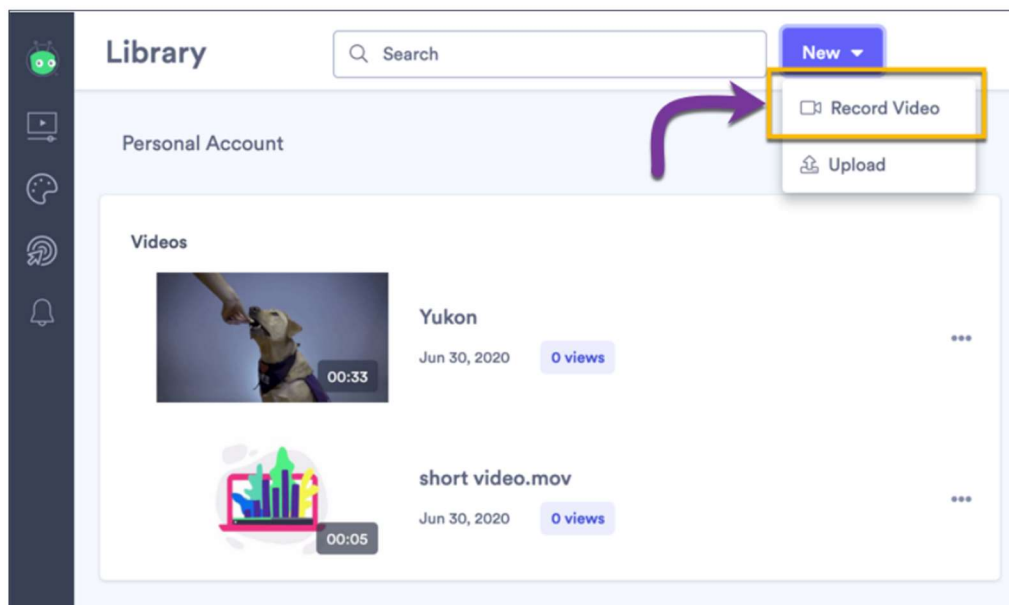
73. On information and belief, Vidyard (or those acting on its behalf) makes, uses, and provides Vidyard and sells and/or offers to sell products and services in the United States that use Vidyard as a feature or component. Vidyard infringes (literally and/or under the doctrine of equivalents) at least claims 1 and 21 of the '728 patent.

74. On information and belief, Vidyard employs and provides an Internet-based method that records audio and video material over an Internet browser connection established between a user front end and a host back end.

In a few simple steps, you can **record a new video** with either your screen or camera directly from the your account library.

Recording videos from your library is particularly useful if you have not yet [set up the Vidyard browser extension](#) or are using a browser other than Chrome or Microsoft Edge.

1. Open the **New** dropdown menu from your library, then select **Record Video**



See <https://knowledge.vidyard.com/hc/en-us/articles/360049977294-How-to-record-a-new-video-from-your-account-library>

Free Screen and Webcam Recording

It's never been easier to create and share videos that get results. With Vidyard's free screen recording tools, you can transform your prospecting communications, customer presentations, and team updates into videos that help your message get heard.

See <https://www.vidyard.com/free-screen-record/>

75. On information and belief, one or more components of the Vidyard System, including particularly and without limitation Vidyard's servers, transmits via a network a platform-independent web application, which initiates the streaming of audio and video material from a user's device as the audio and video material is being captured by that device.

In a few simple steps, you can **record a new video** with either your screen or camera directly from the your account library.

Recording videos from your library is particularly useful if you have not yet [set up the Vidyard browser extension](#) or are using a browser other than Chrome or Microsoft Edge.

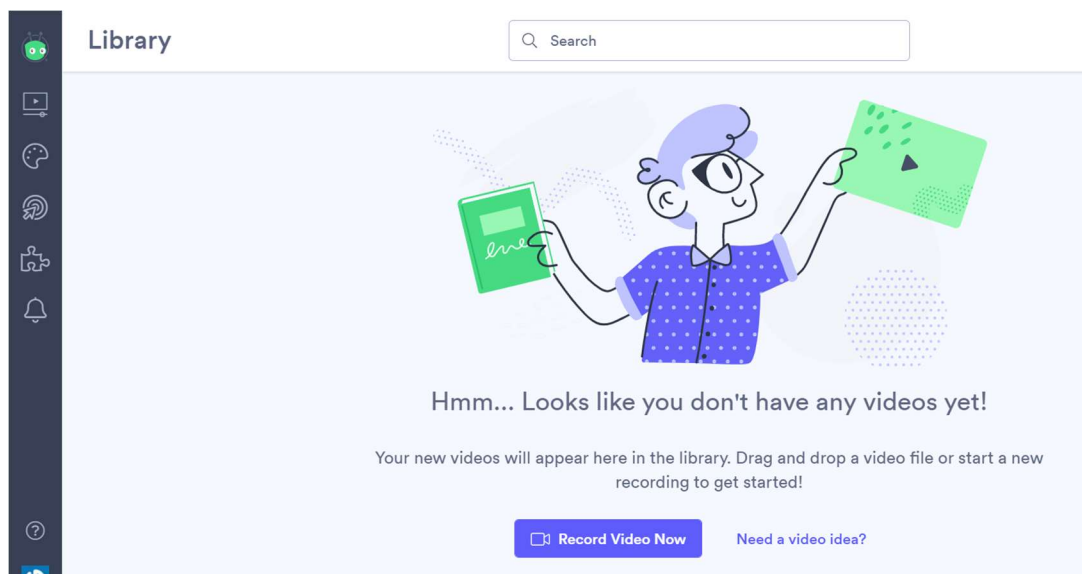
See <https://knowledge.vidyard.com/hc/en-us/articles/360049977294-How-to-record-a-new-video-from-your-account-library>

Easy Video Creation

Record your screen, webcam, or both. Create your own videos in just a few clicks, with no special equipment or video expertise required.

See <https://www.vidyard.com/online-screen-recorder/>

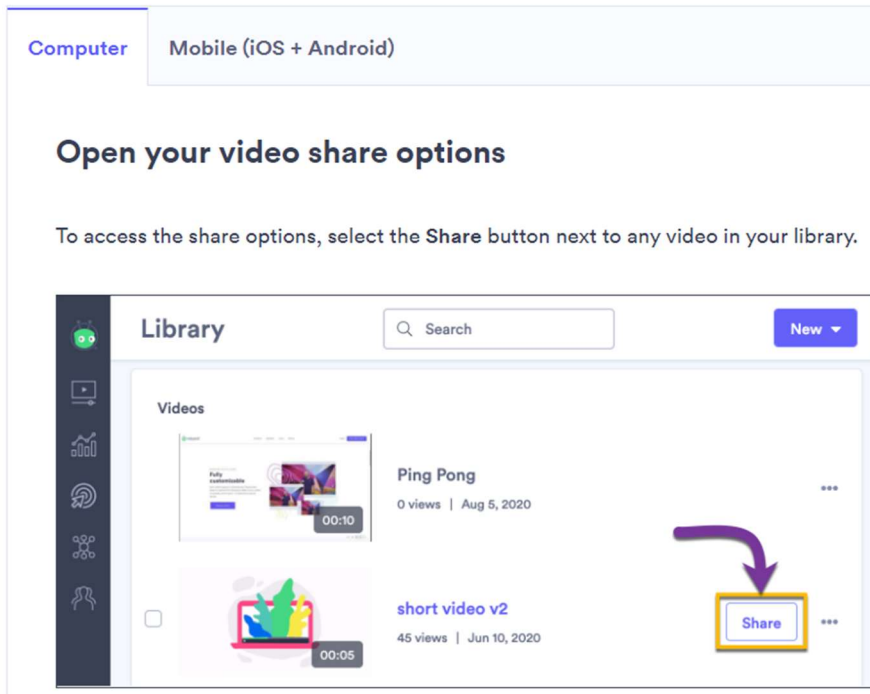
76. On information and belief, Vidyard records audio and video material on Vidyard's servers via the Vidyard web application and stores that audio and video material as a complete file.



See <https://secure.vidyard.com/organizations/1474040/library>

77. On information and belief, one or more components of the Vidyard System generates one or more codes, including without limitation codes comprising a particular Studio Video Object ID, including but not limited to Universal Resource Locator (URL) and Hyper Text Mark-Up Language (HTML) codes, which are associated

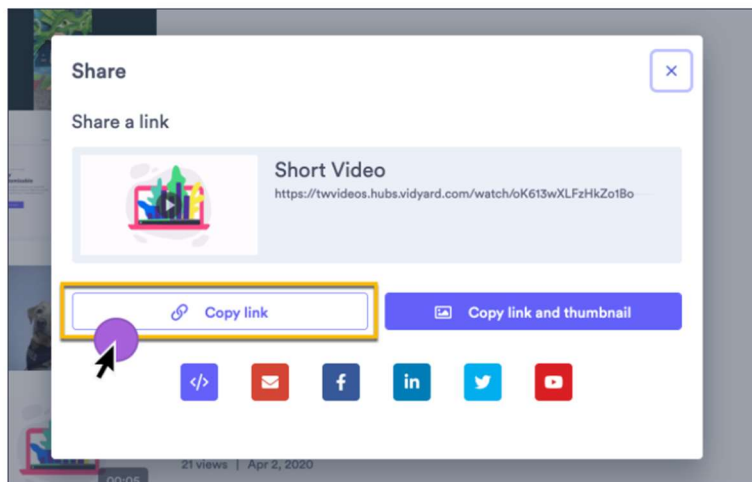
with the recorded and stored audio and video, to facilitate accessing the recorded and stored audio and video material from an additional location, such as a location from which another user of Vidyard is accessing the Vidyard audio and video material.



Copy and paste a link to your video

The basic sharing link is the easiest way to share your video.

Select **Copy Link** from the sharing options menu. Then, **paste the link anywhere** to share your video with others.



See <https://knowledge.vidyard.com/hc/en-us/articles/360023054254-Share-a-link-to-your-video>

78. On information and belief, the content of the one or more codes generated by one or more components of the Vidyad System depends on the type of code supported by the additional location. On information and belief, the content of the one or more codes generated by one or more components of the Vidyad System depends on, among other things, the data transfer protocols that are supported by the client and/or device from which another user of Vidyad is accessing the audio and video material.

79. On information and belief, one or more components of the Vidyad System enables the copying and pasting of codes associated with the recorded and stored audio and video material, including without limitation codes comprising a particular Studio Video Object ID, including but not limited to URL and HTML codes, to additional locations, wherein the activation of such a code provides access to the recorded audio and video from additional locations.

80. On information and belief, Vidyad directly infringes at least claims 1 and 21 of the '728 patent, and is in violation of 35 U.S.C. § 271(a) by using and providing Vidyad.

81. Vidyad's direct infringement has damaged Onstream and caused it to suffer and continue to suffer irreparable harm and damages.

Count III - Infringement of United States Patent No. 10,038,930

82. Onstream repeats, realleges, and incorporates by reference, as if fully set forth here, the allegations of the preceding paragraphs above.

83. On information and belief, Vidyard (or those acting on its behalf) makes, uses, and provides Vidyard and sells and/or offers to sell products and services in the United States that use Vidyard as a feature or component.

84. Vidyard infringes (literally and/or under the doctrine of equivalents) at least claim 1 of the '930 patent.

85. On information and belief, one or more components of the Vidyard System employs a method that transmits via a network a browser-independent recording application from Vidyard's servers to the devices used by Vidyard's users.

Create and Share HD Video from Your Desktop

Vidyard for Desktop video software makes it easy to create high-definition videos. Record a presentation, spreadsheet, product demo, or anything else on your screen—including full-screen apps outside of your browser.

See <https://www.vidyard.com/desktop-app/>

You can use [Vidyard's mobile apps \(for iOS and Android\)](#) to record and share videos on the go.

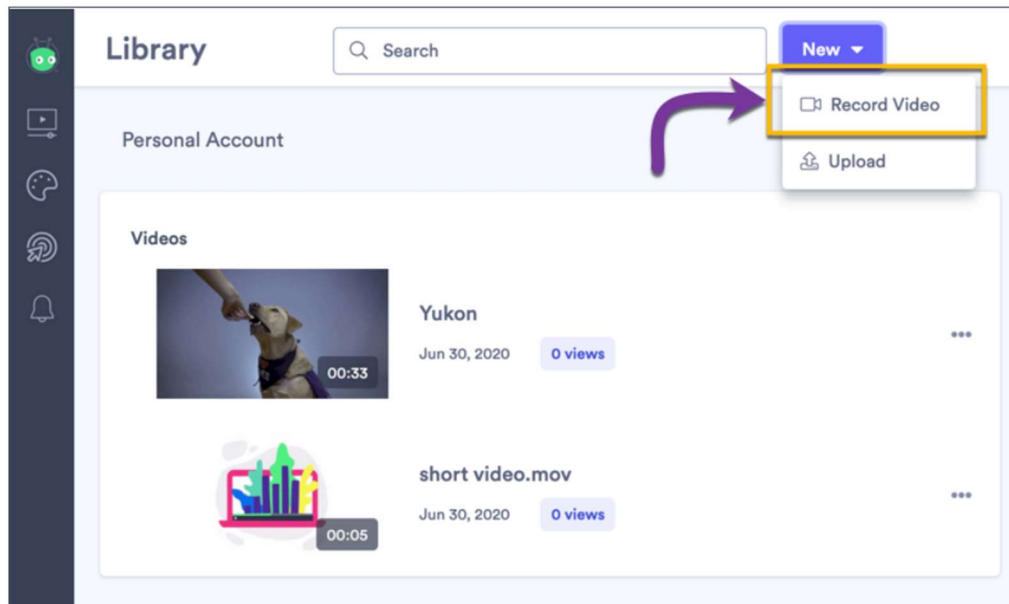
Once installed, simply **tap the camera icon at the bottom of the app** to start a new recording. You can then share the video link directly to Slack, Gmail, Messenger, an SMS text—any app where you communicate with others.

See <https://knowledge.vidyard.com/hc/en-us/articles/1500000193921-How-to-record-a-video-with-the-Vidyard-mobile-app-iOS-or-Android->

86. On information and belief, Vidyard's servers receive a media stream from the devices used by Vidyard's users.

87. On information and belief, the media streams that are transmitted to Vidyard's servers are captured by the Vidyard's browser-independent recording applications, which execute in a browser.

1. Open the **New** dropdown menu from your library, then select **Record Video**



See <https://knowledge.vidyard.com/hc/en-us/articles/360049977294-How-to-record-a-new-video-from-your-account-library>

88. On information and belief, Vidyard does not require the installation of record management software to be installed on the devices used by their users to access Vidyard:

Easy Video Creation

Record your screen, webcam, or both. Create your own videos in just a few clicks, with no special equipment or video expertise required.

See <https://www.vidyard.com/online-screen-recorder/>

89. On information and belief, the media streams generated by the users of Vidyard are recorded on Vidyard's servers using a browser-independent recording application:

Create and Share HD Video from Your Desktop

Vidyard for Desktop video software makes it easy to create high-definition videos. Record a presentation, spreadsheet, product demo, or anything else on your screen—including full-screen apps outside of your browser.

See <https://www.vidyard.com/desktop-app/>

You can use Vidyard's mobile apps (for iOS and Android) to record and share videos on the go.

Once installed, simply tap the camera icon at the bottom of the app to start a new recording. You can then share the video link directly to Slack, Gmail, Messenger, an SMS text—any app where you communicate with others.

See <https://knowledge.vidyard.com/hc/en-us/articles/1500000193921-How-to-record-a-video-with-the-Vidyard-mobile-app-iOS-or-Android->

90. On information and belief, Vidyard directly infringes at least claims 1 and 11 of the '930 patent, and is in violation of 35 U.S.C. § 271(a) by using and providing Vidyard.

91. Vidyard's direct infringement has damaged Onstream and caused it to suffer and continue to suffer irreparable harm and damages.

Count IV – Infringement of United States Patent No. 10,200,648

92. Onstream repeats, realleges, and incorporates by reference, as if fully set forth here, the allegations of the preceding paragraphs above.

93. On information and belief, Vidyad (or those acting on its behalf) makes, uses, and provides Vidyad and sells and/or offers to sell products and services in the United States that use Vidyad as a feature or component.

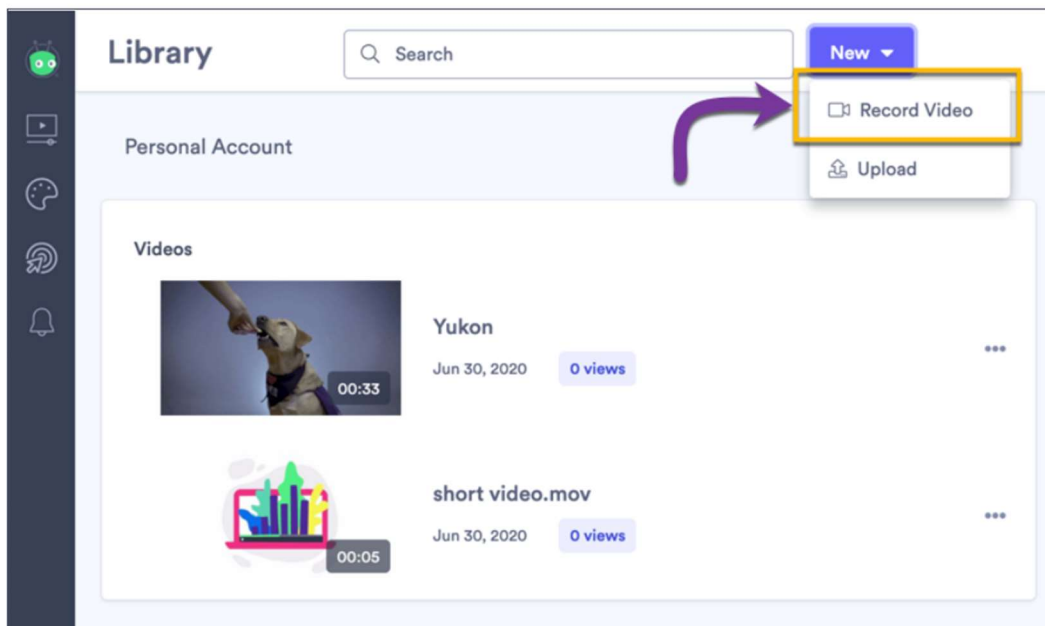
94. Vidyad, infringes (literally and/or under the doctrine of equivalents) at least claim 1 of the '648 patent.

95. On information and belief, one or more components of the Vidyad System employs an Internet-based recording method that performs all of its audio and video recording functions over an Internet browser connection established between a user front end and a host back end:

In a few simple steps, you can **record a new video** with either your screen or camera directly from the your account library.

Recording videos from your library is particularly useful if you have not yet [set up the Vidyad browser extension](#) or are using a browser other than Chrome or Microsoft Edge.

1. Open the **New** dropdown menu from your library, then select **Record Video**



See <https://knowledge.vidyard.com/hc/en-us/articles/360049977294-How-to-record-a-new-video-from-your-account-library#available-recording-options-by-browser>

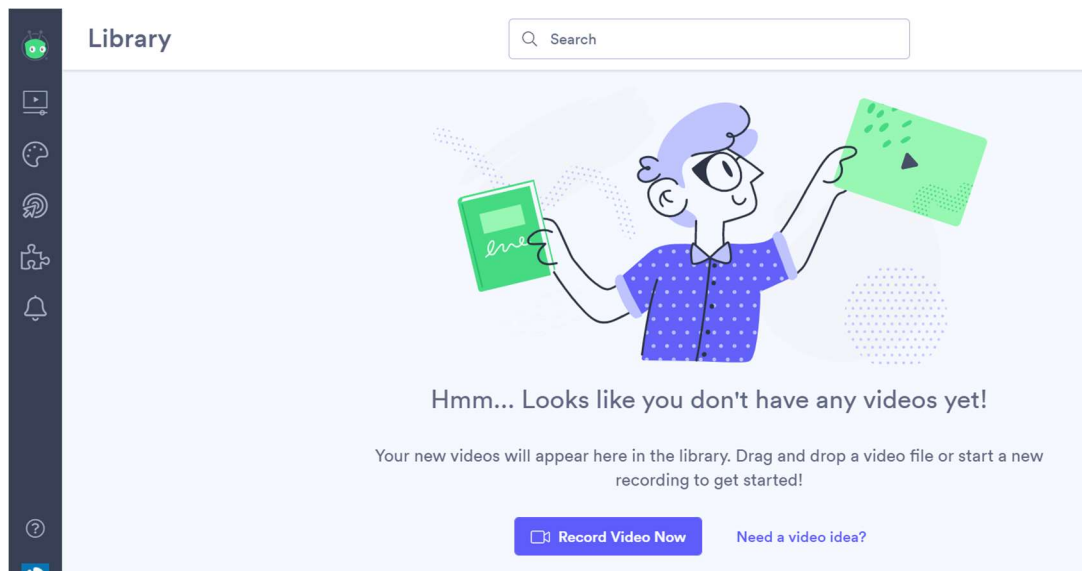
96. On information and belief, one or more components of the Vidyard System records audio and video material that is created by a user over an internet browser connection, without requiring recording functionality to be present in the user's device.

In a few simple steps, you can **record a new video** with either your screen or camera directly from the your account library.

Recording videos from your library is particularly useful if you have not yet **set up the Vidyard browser extension** or are using a browser other than Chrome or Microsoft Edge.

See <https://knowledge.vidyard.com/hc/en-us/articles/360049977294-How-to-record-a-new-video-from-your-account-library#available-recording-options-by-browser>

97. On information and belief, one or more components of the Vidyard System stores audio and video material on Vidyard's servers.



See <https://secure.vidyard.com/organizations/1474040/library>

98. On information and belief, one or more components of the Vidyard System generates one or more codes, including without limitation codes comprising a particular Studio Video Object ID, including but not limited to URL and HTML codes, associated with the recorded and stored audio and video, to facilitate accessing the recorded and stored audio and video material.

99. On information and belief, one or more components of the Vidyard System enables the copying and pasting of code, including without limitation codes comprising a particular Studio Video Object ID, including but not limited to URL and HTML codes, to additional locations, wherein the activation of such a code provides

access to the recorded audio and video from additional locations.

Using the link to your video is the easiest way to start sharing with Vidyard.

Just like when you copy the link to a news article or a cooking recipe, the sharing link works the same as any other page on the internet. Simply **paste the link anywhere** to share your video.

When clicked, **the link will open the video on a dedicated sharing page** for your viewer to watch.

See <https://knowledge.vidyard.com/hc/en-us/articles/360023054254-Share-a-link-to-your-video>

100. On information and belief, Vidyard directly infringes at least claims 1 of the '648 patent, and is in violation of 35 U.S.C. § 271(a) by using and providing Vidyard.

101. Vidyard's direct infringement has damaged Onstream and caused it to suffer and continue to suffer irreparable harm and damages.

Count V – Infringement of United States Patent No. 10,674,109

102. Onstream repeats, realleges, and incorporates by reference, as if fully set forth here, the allegations of the preceding paragraphs above.

103. One or more components of the Vidyard System infringes (literally and/or under the doctrine of equivalents) at least claim 1 of the '109 patent.

104. On information and belief, one or more components of the Vidyard System employs and provides a method that records audio and video material over an Internet browser connection established between a user front end and a host back end.

Create

Upload an existing video or record your own with the Vidyard Screen and Webcam Recorder.

See <https://www.vidyard.com/free-screen-record/>

In a few simple steps, you can **record a new video** with either your screen or camera directly from the your account library.

Recording videos from your library is particularly useful if you have not yet [set up the Vidyard browser extension](#) or are using a browser other than Chrome or Microsoft Edge.

See <https://knowledge.vidyard.com/hc/en-us/articles/360049977294-How-to-record-a-new-video-from-your-account-library#available-recording-options-by-browser>

105. On information and belief, one or more components of the Vidyard System can either be accessed through an Internet browser on a desktop computer or a mobile device.

In a few simple steps, you can **record a new video** with either your screen or camera directly from the your account library.

Recording videos from your library is particularly useful if you have not yet [set up the Vidyard browser extension](#) or are using a browser other than Chrome or Microsoft Edge.

See <https://knowledge.vidyard.com/hc/en-us/articles/360049977294-How-to-record-a-new-video-from-your-account-library#available-recording-options-by-browser>

106. On information and belief, when a user wants to begin streaming using one or more components of the Vidyard System, Vidyard's servers deliver a code, which can be executed by a browser.

107. On information and belief, one or more components of the Vidyard System delivers a code that enables the streaming of audio and video material.

108. On information and belief, one or more components of the Vidyard System delivers a browser-executable-code that is a browser independent recording application that initiates the audio and video stream to be recorded.

In a few simple steps, you can **record a new video** with either your screen or camera directly from the your account library.

Recording videos from your library is particularly useful if you have not yet **set up the Vidyard browser extension** or are using a browser other than Chrome or Microsoft Edge.

See <https://knowledge.vidyard.com/hc/en-us/articles/360049977294-How-to-record-a-new-video-from-your-account-library#available-recording-options-by-browser>

109. On information and belief, one or more components of the Vidyard System delivers a code that is browser independent, in part, because a user can record audio and video material without requiring specialized recording equipment, software, or coding.

110. On information and belief, one or more components of the Vidyard System delivers a code that is executed through a browser at the user front end.

111. On information and belief, one or more components of the Vidyard System uses an Internet connection.

112. Vidyard employs and provides a method wherein audio and video material is streamed over the Internet as the audio and video material is captured by a recording device.

Live streaming video pulls you into a moment

In a heartbeat, catch a moment, share it any time and anywhere, and learn what everyone (or anyone) truly thinks, not just the people who were in the room.

See <https://www.vidyard.com/live-streaming/>

113. On information and belief, one or more components of the Vidyard System uses and provides a method wherein audio and video material is captured without using any recording software installed on the user front end.

Easy Video Creation

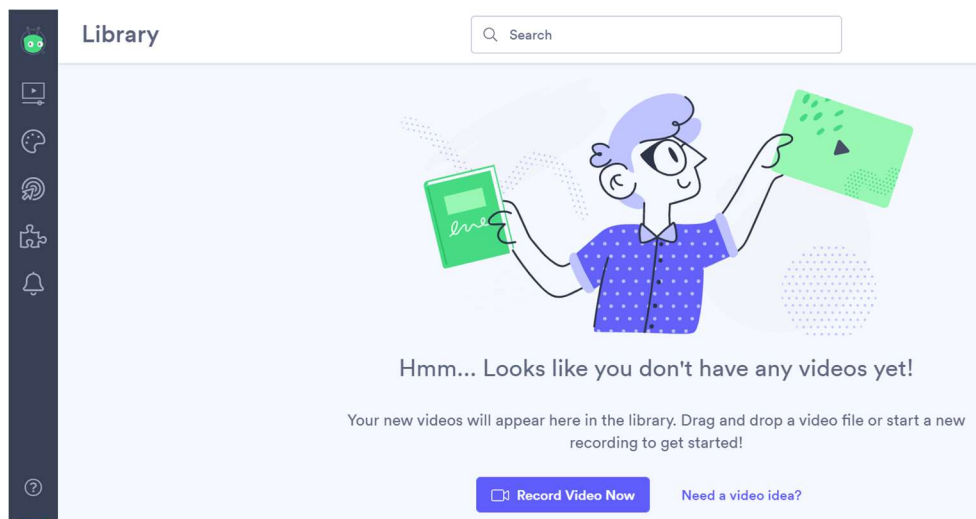
Record your screen, webcam, or both. Create your own videos in just a few clicks, with no special equipment or video expertise required.

See <https://www.vidyard.com/online-screen-recorder/>

114. On information and belief, one or more components of the Vidyard System uses and provides a method that does not require transmission of a complete audio and video file from the user front end. Rather, on information and belief, a stream

of audio and video material is transmitted to Vidyard's servers as the audio and video material is being captured.

115. On information and belief, Vidyard uses and provides a method wherein the audio and video recordings are made and stored on the host back end as a complete file.



See <https://secure.vidyard.com/organizations/1474040/library>

116. On information and belief, Vidyard directly infringes at least claim 1 of the '109 patent, and is in violation of 35 U.S.C. § 271(a) by using and providing the Vidyard.

117. Vidyard's direct infringement has damaged Onstream and caused it to suffer and continue to suffer irreparable harm and damages as a result of Vidyard's infringement.

Count VI – Infringement of United States Patent No. 10,694,142

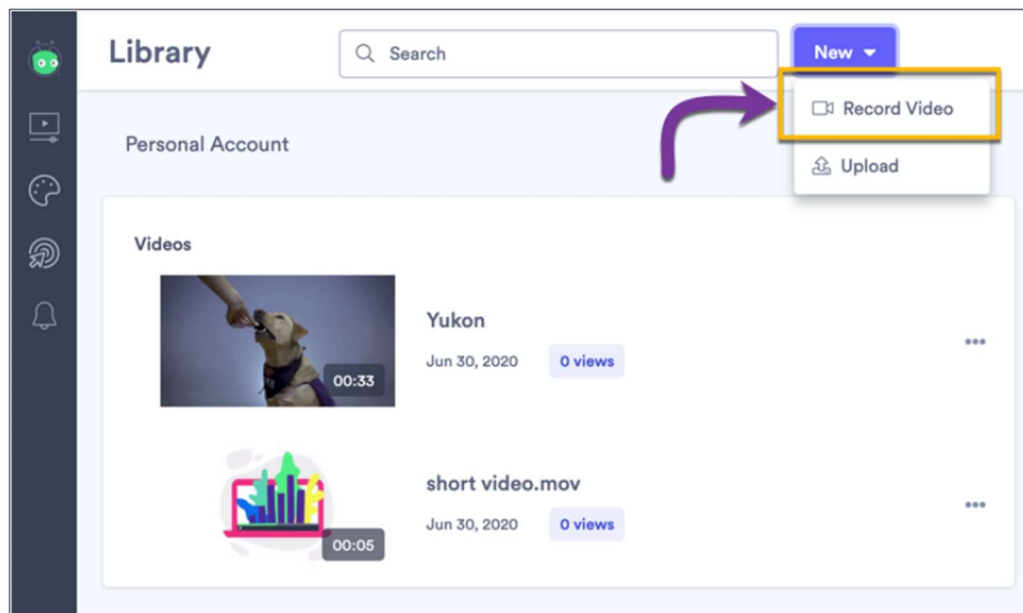
118. Onstream repeats, realleges, and incorporates by reference, as if fully set forth here, the allegations of the preceding paragraphs above.

119. On information and belief, one or more components of the Vidyard System employs and provides a method that records audio and video material over an Internet browser connection established between a user front end and a host back end.

In a few simple steps, you can **record a new video** with either your screen or camera directly from the your account library.

Recording videos from your library is particularly useful if you have not yet [set up the Vidyard browser extension](#) or are using a browser other than Chrome or Microsoft Edge.

1. Open the **New** dropdown menu from your library, then select **Record Video**



See <https://knowledge.vidyard.com/hc/en-us/articles/360049977294-How-to-record-a-new-video-from-your-account-library#available-recording-options-by-browser>

120. On information and belief, one or more components of the Vidyard System can either be accessed through an Internet browser on a desktop computer or a mobile device.

In a few simple steps, you can **record a new video** with either your screen or camera directly from the your account library.

Recording videos from your library is particularly useful if you have not yet **set up the Vidyard browser extension** or are using a browser other than Chrome or Microsoft Edge.

See <https://knowledge.vidyard.com/hc/en-us/articles/360049977294-How-to-record-a-new-video-from-your-account-library#available-recording-options-by-browser>

121. On information and belief, when a user wants to begin streaming using one or more components of the Vidyard System, Vidyard's servers deliver a code, which can be executed by a browser.

122. On information and belief, one or more components of the Vidyard System delivers a code that enables the streaming of audio and video material.

123. On information and belief, one or more components of the Vidyard System delivers a code that is executed at the user front end to initiate the streaming of audio and video material as it is being captured by one or more capturing devices at the user front end to the host back end.

In a few simple steps, you can **record a new video** with either your screen or camera directly from the your account library.

Recording videos from your library is particularly useful if you have not yet **set up the Vidyard browser extension** or are using a browser other than Chrome or Microsoft Edge.

See <https://knowledge.vidyard.com/hc/en-us/articles/360049977294-How-to-record-a-new-video-from-your-account-library#available-recording-options-by-browser>

Live streaming video pulls you into a moment

In a heartbeat, catch a moment, share it any time and anywhere, and learn what everyone (or anyone) truly thinks, not just the people who were in the room.

See <https://www.vidyard.com/live-streaming/>

124. On information and belief, one or more components of the Vidyard System delivers a code that is executed through a browser at the user front end.

125. On information and belief, one or more components of the Vidyard System uses an Internet connection.

What is the slow connection status?

In order to record videos, the Vidyard Chrome extension uses a combination of browser resources, local storage, and your computer's camera and microphone. If using Chrome v.62 or higher, you may receive a **Slow Connection** status when the browser detects that the network is unable to upload more than 4G (approximately 2mbit/sec or less).

See <https://knowledge.vidyard.com/hc/en-us/articles/360009875734-What-does-the-Slow-Connection-status-mean-when-using-the-Vidyard-Chrome-extension->

126. Vidyard employs and provides a method wherein audio and video material is streamed over the Internet as the audio and video material is captured by a recording device.

127. Vidyard uses and provides a method wherein audio and video material is captured without using any recording software installed on the user front end.

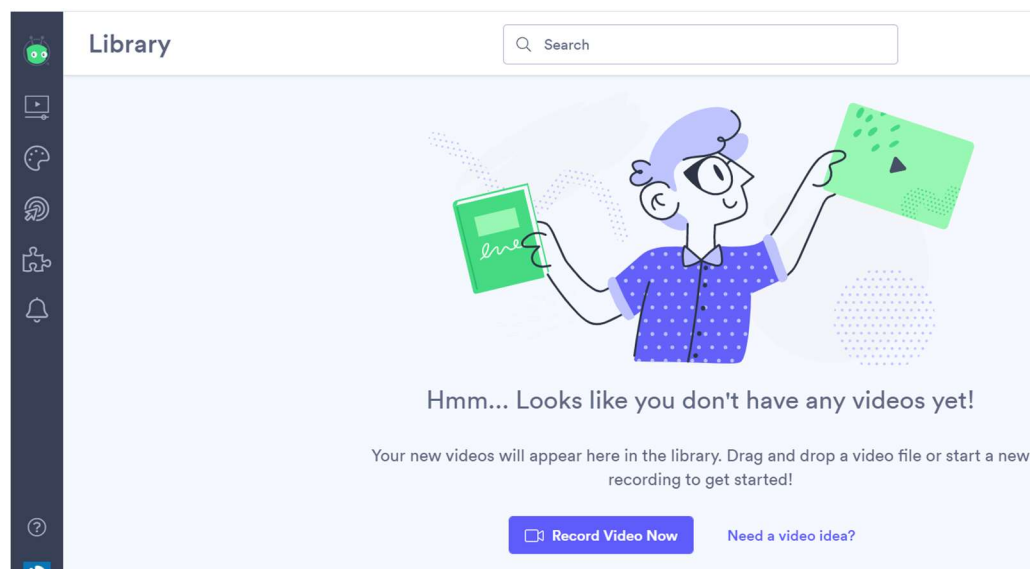
Easy Video Creation

Record your screen, webcam, or both. Create your own videos in just a few clicks, with no special equipment or video expertise required.

See <https://www.vidyard.com/online-screen-recorder/>

128. On information and belief, one or more components of the Vidyard System uses and provides a method that does not require transmission of a complete audio and video file from the user front end. Rather, on information and belief, a stream of audio and video material is transmitted to Vidyard's servers as the audio and video material is being captured.

129. On information and belief, Vidyard uses and provides a method wherein the audio and video recordings are made and stored on the host back end as a complete file.



See <https://secure.vidyard.com/organizations/1474040/library>

130. On information and belief, Vidyadirectly infringes at least claim 1 of the '142 patent, and is in violation of 35 U.S.C. § 271(a) by using and providing the Vidyadirect.

131. Vidyadirect's direct indirect infringement has damaged Onstream and caused it to suffer and continue to suffer irreparable harm and damages.

Count VII – Infringement of United States Patent No. 10,848,707

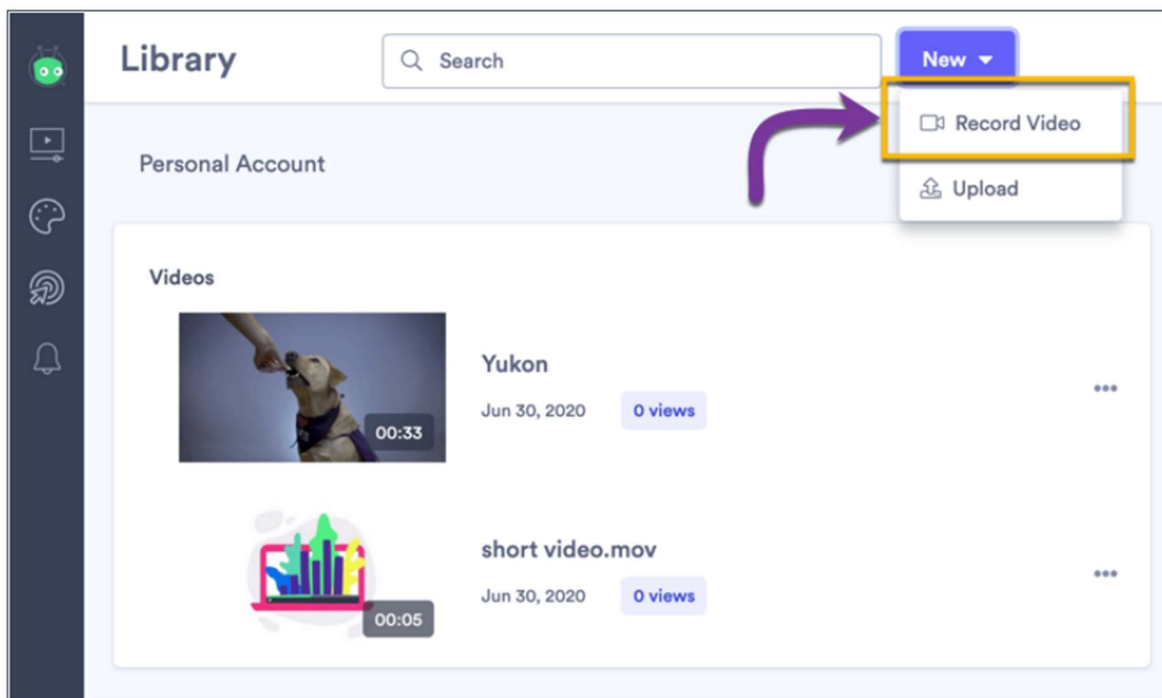
132. Onstream repeats, realleges, and incorporates by reference, as if fully set forth here, the allegations of the preceding paragraphs above.

133. On information and belief, Vidyadirect employs and provides a method that records audio and video material over an Internet browser connection established between a user front end and a host back end.

In a few simple steps, you can **record a new video** with either your screen or camera directly from the your account library.

Recording videos from your library is particularly useful if you have not yet [set up the Vidyadirect browser extension](#) or are using a browser other than Chrome or Microsoft Edge.

1. Open the **New** dropdown menu from your library, then select **Record Video**



See <https://knowledge.vidyard.com/hc/en-us/articles/360049977294-How-to-record-a-new-video-from-your-account-library>

134. On information and belief, one or more components of the Vidyard System can either be accessed through an Internet browser on a desktop computer or a mobile device.

In a few simple steps, you can **record a new video** with either your screen or camera directly from the your account library.

Recording videos from your library is particularly useful if you have not yet **set up the Vidyard browser extension** or are using a browser other than Chrome or Microsoft Edge.

See <https://knowledge.vidyard.com/hc/en-us/articles/360049977294-How-to-record-a-new-video-from-your-account-library>

135. On information and belief, one or more components of the Vidyad System uses an Internet connection.

In order to record videos, the Vidyad Chrome extension uses a combination of browser resources, local storage, and your computer's camera and microphone. If using Chrome v.62 or higher, you may receive a **Slow Connection** status when the browser detects that the network is unable to upload more than 4G (approximately 2mbit/sec or less).

See <https://knowledge.vidyard.com/hc/en-us/articles/360009875734-What-does-the-Slow-Connection-status-mean-when-using-the-Vidyad-Chrome-extension->

136. Vidyad employs and provides a method wherein audio and video material is streamed over the Internet as the audio and video material is captured by a recording device.

Live streaming video pulls you into a moment

In a heartbeat, catch a moment, share it any time and anywhere, and learn what everyone (or anyone) truly thinks, not just the people who were in the room.

See <https://www.vidyard.com/live-streaming/>

137. Vidyad uses and provides a method wherein audio and video material is captured without using any recording software installed on the user front end.

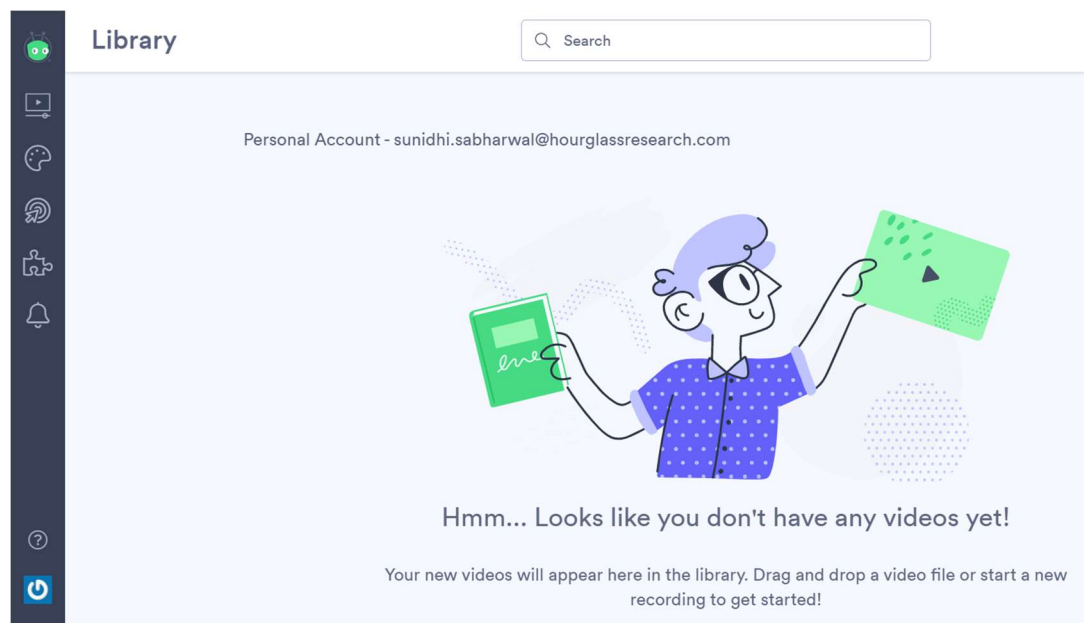
Easy Video Creation

Record your screen, webcam, or both. Create your own videos in just a few clicks, with no special equipment or video expertise required.

See <https://www.vidyard.com/online-screen-recorder/>

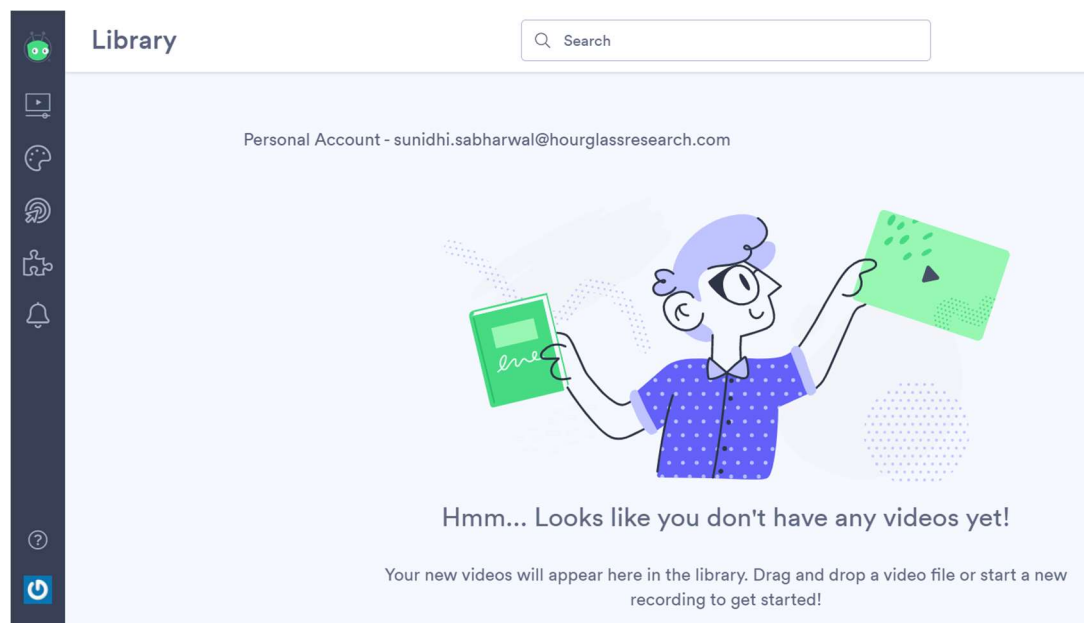
138. On information and belief, one or more components of the Vidyard System uses and provides a method that does not require transmission of a complete audio and video file from the user front end. Rather, on information and belief, a stream of audio and video material is transmitted to Vidyard's servers as the audio and video material is being captured.

139. On information and belief, Vidyard uses and provides a method wherein the audio and video recordings are made and stored on the host back end as a complete file.



See <https://secure.vidyard.com/organizations/1474040/library>

140. On information and belief, one or more components of the Vidyard System uses and provides a method wherein after the recording of audio and video material is complete, Vidyard provides access to the entire audio and video recording.



See <https://secure.vidyard.com/organizations/1474040/library>

141. On information and belief, one or more components of the Vidyard System generates one or more codes, including without limitation codes comprising a particular Studio Video Object ID, including but not limited to Universal Resource Locator (URL) and Hyper Text Mark-Up Language (HTML) codes, which are associated with the recorded and stored audio and video, to facilitate accessing the recorded and stored audio and video material from an additional location, such as a location from which another user of Vidyard is accessing the Vidyard audio and video material.

Using the link to your video is the easiest way to start sharing with Vidyard.

Just like when you copy the link to a news article or a cooking recipe, the sharing link works the same as any other page on the internet. Simply **paste the link anywhere** to share your video.

When clicked, **the link will open the video on a dedicated sharing page** for your viewer to watch.

See <https://knowledge.vidyard.com/hc/en-us/articles/360023054254-Share-a-link-to-your-video>

142. On information and belief, one or more components of the Vidyard System enables addition of (i) digital still image material (e.g., Poster, thumbnail, cover image), (ii) digital audio material (e.g., overlayed audios), (iii) digital video material (e.g., gif), (iv) digital video material and digital audio material, (v) digital still image material and digital video material, (vi) digital still image material and digital audio material, or (vii) digital still image material, digital audio material, and digital video material, to the sequentially stored file at the one or more host back end application servers.

143. On information and belief, Vidyard directly infringes at least claim 1 of the '707 patent and is in violation of 35 U.S.C. § 271(a) by using and providing the Vidyard.

144. Vidyard's direct infringement has damaged Onstream and caused it to suffer and continue to suffer irreparable harm and damages.

JURY DEMANDED

145. Pursuant to Federal Rule of Civil Procedure 38(b), Onstream hereby requests a trial by jury on all issues so triable.

PRAYER FOR RELIEF

Onstream respectfully requests this Court to enter judgment in Onstream's favor and against Vidyard as follows:

- a. finding that Vidyard has infringed one or more claims of the '068 patent under 35 U.S.C. §§ 271(a);
- b. finding that Vidyard has infringed one or more claims of the '728 patent under 35 U.S.C. §§ 271(a);
- c. finding that Vidyard has infringed one or more claims of the '930 patent under 35 U.S.C. §§ 271(a);
- d. finding that Vidyard has infringed one or more claims of the '648 patent under 35 U.S.C. §§ 271(a);
- e. finding that Vidyard has infringed one or more claims of the '109 patent under 35 U.S.C. §§ 271(a);
- f. finding that Vidyard has infringed one or more claims of the '142 patent under 35 U.S.C. §§ 271(a);
- g. finding that Vidyard has infringed one or more claims of the '707 patent under 35 U.S.C. §§ 271(a);

- h. awarding Onstream damages under 35 U.S.C. § 284, or otherwise permitted by law, including supplemental damages for any continued post-verdict infringement;
- i. awarding Onstream pre-judgment and post-judgment interest on the damages award and costs;
- j. awarding cost of this action (including all disbursements) and attorney fees pursuant to 35 U.S.C. § 285, or as otherwise permitted by the law; and
- k. awarding such other costs and further relief that the Court determines to be just and equitable.

Dated: June 1, 2021

Respectfully submitted,

/s/Raymond W. Mort, III

Raymond W. Mort, III

Texas State Bar No. 00791308

raymort@austinlaw.com

THE MORT LAW FIRM, PLLC

100 Congress Avenue, Suite 2000

Austin, Texas 78701

Tel/Fax: 512-865-7950

Of Counsel:

Ronald M. Daignault (*pro hac vice* to be filed)*

Chandran B. Iyer (*pro hac vice* to be filed)

Jason Charkow (*pro hac vice* to be filed)*

rdaignault@daignaultiyer.com

cbiyer@daignaultiyer.com

jcharkow@daignaultiyer.com

DAIGNAULT IYER LLP

8618 Westwood Center Drive - Suite 150

Vienna, VA 22182

**Not admitted to practice in Virginia*

Attorneys for Onstream Media Corporation